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6 Attorneys for Defendant The University of
 Phoenix, Inc.

8 UNITED STATES DISTRICT COURT – SOUTHERN DISTRICT OF
 9 CALIFORNIA

10 CHAD MCKINNEY, an individual,

11 Plaintiff,

12 v.

13 APOLLO GROUP, INC.,
 14 UNIVERSITY OF PHOENIX, a
 Corporation, MECHELLE
 15 BONILLA, an Enrollment Manager
 at UNIVERSITY OF PHOENIX,
 KYAN FLYNN, Director of
 Enrollment at UNIVERSITY OF
 16 PHOENIX, APRIL ALCORN, an
 Employees Relations Consultant at
 UNIVERSITY OF PHOENIX,
 17 CARLYN LINDSTEN, Associate
 Director of Enrollment at
 UNIVERSITY OF PHOENIX

18 Defendants

CASE NO. 07-CV-2373 WQH CAB

**UNIVERSITY OF PHOENIX, INC.'S
 NOTICE OF MOTION AND
 MOTION TO DISMISS
 PLAINTIFF'S COMPLAINT, OR, IN
 THE ALTERNATIVE, MOTION
 FOR MORE DEFINITE
 STATEMENT**

[FRCP 12(b)(2); 12(b)(5); 12(b)(6);
 12(e).]

**NO ORAL ARGUMENT, UNLESS
 REQUESTED BY THE COURT**

Date: May 12, 2008

Time: 11:00 a.m.

Courtroom: 4

Judge: Hon. William Q. Hayes

DATE OF FILING: December 19, 2007

TO PLAINTIFF AND HIS ATTORNEY(S) OF RECORD:

PLEASE TAKE NOTICE that on May 12, 2008 at 11:00 a.m., or as soon thereafter as counsel may be heard by the above entitled Court, located at 940 Front Street, San Diego, California 92101, Courtroom 4, defendant University of Phoenix, Inc. ("UOP") will and hereby does move the Court pursuant to Rules

8657339.1

USDC-SOUTHERN DISTRICT CALIFORNIA
 CASE NO. 07-CV-2373 WQH CAB

UOP'S NOTICE OF MOTION AND MOTION TO DISMISS OR FOR MORE DEFINITE STATEMENT

1 12(b)(2); 12(b)(5); 12(b)6; and 12(e) of the Federal Rules of Civil Procedure
 2 ("FRCP") to dismiss plaintiff's complaint with prejudice or in the alternative
 3 require a more definite statement.

4 This motion is brought on the following grounds: (1) The Court lacks
 5 jurisdiction over UOP since it was never properly served in this matter; (2) The
 6 Complaint fails to state any claims upon which relief may be granted; (3) The
 7 Complaint fails to set forth a short and plain statement of the claim showing that the
 8 [plaintiff] is entitled to relief; and (4) The Complaint is so vague and ambiguous so
 9 as to require plaintiff to provide a more definite statement.

10 This motion is based on this notice of motion and motion, the memorandum
 11 of points and authorities, the declaration of Nathan W. Hicks filed herewith, and
 12 supporting exhibit thereto, the Court's files in this matter, all supporting documents,
 13 evidence and oral argument before this Court at the time of the hearing, and any
 14 other matter properly before the Court.

15 Date: March 31, 2008

SNELL & WILMER L.L.P.

17 By: s/Nathan Hicks
 18 Christy Joseph
 19 Nathan W. Hicks
 20 Attorneys for Defendant The
 21 University of Phoenix, Inc.

PROOF OF SERVICE

2 **McKinney v. Apollo Group, Inc., et al.**
 3 **USDC, Southern – Case No. 07-CV-2373**

4 I am employed in the County of Orange, State of California. I am over the age of
 5 18 and not a party to the within action; my business address is 600 Anton Boulevard,
 6 Suite 1400, Costa Mesa, California 92626-7689.

7 On March 31, 2008, I served, in the manner indicated below, the foregoing
 8 document described as

9 **UNIVERSITY OF PHOENIX, INC.'S NOTICE OF MOTION AND MOTION**
 10 **TO DISMISS PLAINTIFF'S COMPLAINT, OR, IN THE ALTERNATIVE,**
 11 **MOTION FOR MORE DEFINITE STATEMENT**

12 on the interested parties in this action by placing true copies thereof, enclosed in sealed
 13 envelopes, at Costa Mesa, addressed as follows:

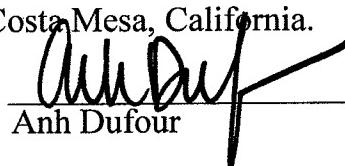
14 I am employed in the office of a member of the bar of this court at whose direction
 15 the service was made.

16 **Please See Attached Service List**

- 17 □ BY REGULAR MAIL: I caused such envelopes to be deposited in the
 18 United States mail at Costa Mesa, California, with postage thereon fully
 19 prepaid. I am readily familiar with the firm's practice of collection and
 20 processing correspondence for mailing. It is deposited with the United
 21 States Postal Service each day and that practice was followed in the
 22 ordinary course of business for the service herein attested to (C.C.P. §
 23 1013(a)).
- 24 □ BY FACSIMILE: (C.C.P. § 1013(e)(f)) and by e-mail
- 25 ☒ BY FEDERAL EXPRESS: I caused such envelopes to be delivered by air
 26 courier, with next day service, to the offices of the addressees. (C.C.P. §
 27 1013(c)(d)).
- 28 □ BY PERSONAL SERVICE: I caused such envelopes to be delivered by
 29 hand to the offices of the addressees. (C.C.P. § 1011(a)(b)).

30 I declare under penalty of perjury under the laws of the State of California that the
 31 above is true and correct.

32 Executed on March 31, 2008, at Costa Mesa, California.



Anh Dufour

SERVICE LIST

2 **McKinney v. Apollo Group, Inc., et al.**
 3 **USDC, Southern – Case No. 07-CV-2373**

4 Chad McKinney Pro Se 6266 Madeline Street, Apt. #61 San Diego, CA 92115 (619) 634-3566	5 Plaintiff, Pro Se
8 United States District Court Attention: Hon. Judge William Q. Hayes Courtroom 4 10 880 Front Street, Room 4290 11 San Diego, CA 92101-8900 (619) 557-5600	9 Courtesy Copy

12
 Snell & Wilmer
 13 LLP
 14 LAW OFFICES
 15 600 Anton Boulevard, Suite 1400
 16 Costa Mesa, California 92626-1689
 17 (714) 427-7000

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